IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4329 OF 2005

Shri Trimbak Vishnu Ladkat & Anr. ..Petitioners.

Versus

M/s. Goel Associates & Ors. ..Respondents.

Mr. S.B. Deshpande for the Petitioners.

CORAM : S. A. BOBDE, J.

DATED : 19TH JULY, 2005.

P.C.:

1. The petitioners have challenged the order of the trial court dated 18.03.2005, staying regular civil Suit No. 1720/2004 in view of the fact that an earlier instituted suit being special civil Suit No. 1258/1999, is pending. This order is made under section 10 of the C.P.C.. There is no dispute that the suit is in respect of the same property and the plaintiff in both the suits is the same. More over, the defendants in the earlier suit are also defendants in the latter suit, except in the latter suit, the

Pune Municipal Corporation is also added as a party. In the earlier suit, the petitioner plaintiff has claimed that he has cancelled the memorandum of understanding dated 11.02.1994 and sought a declaration that the confirmation deed dated 22.12.1998 is null and void and that the defendant has no right to enter into the suit property and deal with the suit property.

2. In the latter suit, the petitioners have claimed that since they have cancelled the memorandum of understanding dated 11.02.1994, the defendant is not entitled to obtain additional T.D.R. from the Municipal Corporation. Under these circumstances, the trial court has come to the conclusion that the latter suit is essentially and substantially in issue in the previously instituted suit between the same parties.

3. In the circumstances, I see no reason to interfere with the order impugned. The petition is disposed of.

4. The petitioners would be at liberty to apply for consolidation of the suits as may be advised.

19.07.2005 (S.A.BOBDE,J.)

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